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106TH CONGRESS
1ST SESSION

H. R. 549

To provide for the non-preemption of State prescription drug benefit laws
in connection with Medicare+Choice plans.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1999

Mr. MARKEY (for himself, Mr. NEAL of Massachusetts, Mr. MOAKLEY, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. MEEHAN, Mr. MCGOVERN, Mr. TIERNEY, Mr. DELAHUNT, and Mr. CAPUANO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the non-preemption of State prescription drug
benefit laws in connection with Medicare+Choice plans.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. NON-PREEMPTION OF STATE PRESCRIPTION**
- 4 **DRUG COVERAGE MANDATES IN CASE OF AP-**
- 5 **PROVED STATE MEDIGAP WAIVERS.**

- 6 (a) IN GENERAL.—Section 1856(b)(3) of the Social
- 7 Security Act (42 U.S.C. 1395w-26(b)(3)) is amended—

1 (1) in subparagraph (A), by striking “The
 2 standards” and inserting “Subject to subparagraph
 3 (C), the standards”, and

4 (2) by adding at the end the following new sub-
 5 paragraph:

6 “(C) CONTINUATION OF STATE PRESCRIP-
 7 TION DRUG LAWS.—Subparagraph (A) shall not
 8 supersede any State law that requires the com-
 9 prehensive coverage of prescription drugs or
 10 any regulation that carries out such a law, if—

11 “(i) the State has a waiver in effect
 12 under section 1882(p)(6)(A) with respect
 13 to requiring such coverage under medicare
 14 supplemental policies; or

15 “(ii) the Secretary provides for a
 16 waiver for the State to impose such a re-
 17 quirement under section 1882(p)(6)(B).”.

18 (b) MEDIGAP WAIVER.—Section 1882(p)(6) of such
 19 Act (42 U.S.C. 1395ss(p)(6)) is amended—

20 (1) by inserting “(A)” after “(6)”, and

21 (2) by adding at the end the following new sub-
 22 paragraph:

23 “(B) The Secretary also may waive the application
 24 of the standards described in paragraph (1)(A)(i) for a
 25 State to include comprehensive prescription drug coverage

1 among the benefits required for all medicare supplemental
2 policies.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section take effect on the date of the enactment of
5 this Act.

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